

APPENDIX A

Opinion of the Supreme Court of Ohio

Decided December 27, 1967

TAFT, C.J. It is first contended that the ordinance involved in the instant case is not, within the meaning of Section 137 of the Akron Charter, one "which regulates," because it prohibits certain acts, including the discrimination against relator that is alleged in the petition. However, as stated in paragraph two of the syllabus of *West Jefferson v. Robinson* (1965), 1 Ohio St. 2d 113, 205 N.E. 2d 382: "The power given to municipalities by Section 3 of Article XVIII to adopt and enforce local police regulations includes the power by such regulations to prohibit." Actually, it did not include that power, there would be a very serious question as to whether the prohibitory parts of the ordinance that are relied upon by relator ever had any validity, notwithstanding our holding in *Porter v. Oberlin*, *supra* (1 Ohio St. 2d 143), that similar prohibitory parts of the ordinance there involved were valid.

It is obvious therefore that, if Section 137 of the Akron Charter is valid, its words require the conclusion that the ordinance relied upon by relator has ceased to be effective. Admittedly, that ordinance was in effect when that charter section was adopted and that ordinance has never been approved by the electors.

Relator contends that Section 137 of the Akron Charter is invalid by reason of Article XIV of the Amendments to the Constitution of the United States. In support of this contention, relator relies upon *Reitman v. Mulkey* (1967), 387 U. S. 369, 18 L. Ed. 830, 87 S. Ct. 1627.

That case dealt with a state constitutional provision which prohibited the state or any agency of the state from denying, or limiting "the right of any person * * * to decline to sell, lease or rent * * * property to such person or persons as he, in his absolute discretion, chooses."

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Obviously, Section 137 of the Akron Charter does not do this. Notwithstanding its provisions, the legislative authority of Akron may still enact legislation denying or limiting the so-called right referred to in the California constitutional provision, and such legislation would become effective on approval thereof by the electors of Akron.

Under Section 7 of Article XVIII of the Ohio Constitution, a municipality is specifically authorized to "frame and adopt or amend a charter for its government and" to "exercise thereunder all powers of local self-government."

It may reasonably be argued that the equal-protection clause of the Fourteenth Amendment to the Constitution of the United States would prevent Akron by its charter from exercising thereunder powers of local self-government so as to require prior voter approval only with respect to the kind of ordinances described in Section 137 of its charter.

In our opinion, that constitutional provision would not prevent such a charter requirement, if we can reasonably conclude that ordinances of the kind described in Section 137 of the Akron Charter may reasonably require such a different treatment than other ordinances. In other words, the question is whether the classification of such ordinances, so as to require voter approval thereof instead of enabling them to become effective as do other ordinances, represents a reasonable classification. In our opinion, it does. Thus, as stated in the majority opinion in *Porter v. Oberlin, supra* (1 Ohio St. 2d 143), at 152:

"Certainly, a legislative body is not unreasonable because it elects to proceed slowly in such an emotionally involved field as race relations." See also *Chicago Real Estate Board v. Chicago* (1967) 36 Ill. 2d 530, 224 N.E. 2d 793.

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Likewise, since all the legislative power of a municipality is inherent in its people (See Section 2, Article I and Article XVIII of the Ohio Constitution), they are not unreasonable because they elect to proceed slowly in that field.

Thus, our conclusion is that Section 137 of the Akron Charter does not conflict with Article XIV of the Amendments to the Constitution of the United States.

For the foregoing reasons, the judgment of the Court of Appeals is affirmed.

Judgment affirmed.

ZIMMERMAN, MATTHIAS, O'NEILL, HERBERT and BROWN,
J.J., concur.

SCHNEIDER, *J.*, concurs in the judgment on the basis of
Judge Guernsey's concurring opinion in *Porter v. Oberlin*, 1
Ohio St. 2d 143, at page 154.

APPENDIX B

Opinion of Court of Appeals for the Ninth Judicial District of Ohio

BRENNEMAN, J.:

This original action in this court is brought by the relator seeking a writ of mandamus. The relator's petition requests an order of mandamus to direct the Mayor, and all other defendants, to process a complaint filed by relator with the Commission on Equal Opportunity in Housing, as provided in Ordinance Number 873-1964; and Section 6 of this ordinance as amended by Ordinance Number 926-1964.

A demurrer to the relator's petition was sustained by this court as a result of the rule announced in the case of *Porter v. Oberlin*, 1 Ohio St. 2d, 143, which stated that Section 3 of the Oberlin ordinance (enforcement procedure) was unconstitutional. Following that rule, this court decided that Section 6 of the Akron ordinance (enforcement procedure) was unconstitutional (both sections being substantially the same), and sustained the demurrer of respondents as previously stated. The Supreme Court of Ohio, on an appeal from the sustaining of the demurrer, announced in 6 Ohio St. 2d, 130 (this case) that Section 6 (enforcement procedure) of the Akron ordinance was constitutional and, by mandate, ordered the demurrer overruled. The matter is now before this court on its merits.

The factual situation of this case is not subject to controversy, as the facts are either stipulated or not denied in the pleadings.

On July 14, 1964, the Council of the City of Akron passed Ordinance Number 873-1964. On July 21, 1964, Section 6 of the ordinance was amended by passing Ordinance Number 926-1964. The amended ordinance prohibits discrimination in the sale or rental of houses, on the basis of

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race, color, religion, or national origin. The ordinance provided enforcement procedure and violation penalties. That portion of the ordinance providing for enforcement procedure establishes in the office of the Mayor of the City of Akron a commission to be appointed by the Mayor, whose duties are, in part, to receive and investigate complaints, hold hearings, and determine facts concerning complaints; and to seek conciliation of such complaints.

At the general election held November 3, 1964, a proposed amendment to the Charter of the city of Akron was submitted to the electorate, which amendment provided:

“Section 137. (Regulation of Real Property Rights)

“Any ordinance enacted by the Council of the City of Akron which regulates the use, sale, advertisement, transfer, listing, assignment, lease, sublease or financing of real property of any kind or of any interest therein on the basis of race, color, religion, national origin or ancestry must first be approved by a majority of the electors voting on the question at a regular or general election before said ordinance shall be effective. Any such ordinance in effect at the time of the adoption of this section shall cease to be effective until approved by the electors as provided herein.”

Charter Section 137 was adopted by a majority vote of the electorate of the city of Akron, Ohio, at the general election held November 3, 1964.

The relator alleges that on January 26th and January 27th, 1965, the Mayor and members of the Commission on Equal Opportunity in Housing, of the city of Akron, were served with a complaint alleging that the relator was discriminated against in her efforts to locate desirable housing, and that the respondents refused, and continue to

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refuse, to process her complaint, as provided by Ordinance Numbers 873-1964 and 926-1964 of the city of Akron.

On February 3, 1965, the realtor filed a petition seeking a writ of mandamus to compel performance by the respondents of their official duties as provided in Ordinance Number 873-1964, and amended Ordinance Number 926-1964.

In answer to the petition of the relator, the respondents claim that Charter Amendment No. 137, as passed November 3, 1964, bars a cause of action predicated on the two ordinances relied upon by the relator for an order in mandamus to force the Commission on Equal Opportunity in Housing to process her complaint.

One question is thus raised by all of the pleadings: Is Charter Amendment No. 137 as passed a valid enactment, and not in conflict with the general laws of the land?

The relator contends the enactment of Charter Amendment No. 137 is invalid because:

1. It exceeds the authority conferred by the Ohio Constitution, Article II, Section 1f, and Article XVIII, Section 3; and the Akron Charter, Section 17 (initiative).
2. It is in contravention of rights secured by the Ohio Constitution, Article I, Section 1.
3. It was not validly enacted in that it did not comply with Section 19 of the Akron Charter (referendum).
4. It denies equal protection as set forth in the XIV Amendment to the Constitution of the United States.
5. It does not repeal Ordinances 873-1964 and 926-1964, because the ordinances are prohibitive, and the amendment applies only to regulatory ordinances.

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Article II, Section 1f, of the Constitution of Ohio, adopted in 1912, provides:

"The initiative and referendum powers are hereby reserved to the people of each municipality on all questions which such municipalities may now or hereafter be authorized by law to control by legislative action; such powers shall be exercised in the manner now or hereafter provided by law."¹

There is no dispute concerning Section 17 of the Charter of the city of Akron providing procedure for initiative enactment of laws; and we do not here present the entire section verbatim.

The position of the relator is to the effect that Charter Amendment No. 137 is not an initiative enactment, but a referendum directed at Ordinances Numbers 873-1964 and 926-1964. The relator further says that Section 19 of the Charter of the city of Akron (referendum procedure) should have been followed, but instead Section 17 (initiative procedure) was followed.

We are of the opinion that the initiative petitions submitting Amendment No. 137 to the Charter of the city of Akron were proper; that the amendment was not directed to any specific legislation named therein (none was mentioned), and only the subject matter itself (all legislation regulating " * * * the use, sale * * * of real property * * *") was submitted to the electorate.

It is true that Amendment No. 137 repeals Ordinances Numbers 873-1964 and 926-1964; but it also repeals *all other* ordinances regulating "the use, sale * * * of real property * * * on the basis of race, color, religion, national origin or ancestry * * *", if any there be. It cannot be said that it is directed to a specific ordinance when it is directed to all ordinances of the same class. It repeals Ordinances

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Numbers 873-1964 and 926-1964 only because they fall within the class of legislation, not by reason of any specific direction in the amendment.

The relator cites to this court the case of State, ex rel. Smith vs. City of Fremont, 116 Ohio St. 469, as authority that initiative legislation cannot be used as a substitute for referendum. As pointed out in the brief of counsel, that case was overruled in the learned opinion of Judge Zimmerman in the case of State, ex rel. Sharpe vs. Hitt, Auditor, 155 Ohio St. 529. A careful reading of that opinion is aptly summed up in paragraph 3 of the syllabus:

“The electors of a municipality may by the initiative enact a measure conflicting with or repealing legislation previously passed by the municipal council, so long as the subject matter of such initiative ordinance is within the powers of the municipality to control by legislative procedure.”

Further, it may be stated that even though this was a charter amendment, and not an enactment of an ordinance, it is also permissible, in the opinion of this court, for it has been determined in the case of City of Youngstown vs. Craver, et al., Board of Elections etc., 127 Ohio St. 195; 187 N.E. 715, that a city charter may be abolished by the initiative. It is logical to assume that if a city charter may be abolished by this method, it may also be amended by the same method.

Was Charter Amendment No. 137 authorized by law and subject to control by legislative action, as set forth in Article II, Section 1f, of the Constitution of Ohio?

Has Article I, Section 1, of the Constitution of Ohio, granting to Ohio citizens the inalienable right of “acquiring *** property” been violated by Charter Amendment No. 137?

Is Charter Amendment No. 137 in conflict with the

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Fourteenth Amendment to the Constitution of the United States?

We have answered the first question in the affirmative, for the reasons stated, and the authorities cited.

As to the second and third questions, both Section 1 of Article I of the Ohio Constitution, and the Fourteenth Amendment to the Constitution of the United States, grant to citizens the right to acquire and possess property. This is fundamental law, and it is not necessary to cite authorities, either in Ohio or throughout the land, upholding this right.

We must look to Charter Amendment No. 137 (previously set out in full in this opinion), to determine the question of conflict with, or denial of, the rights granted.

Charter Amendment No. 137 says, in effect, that any ordinance *regulating* the "use, sale *** of real property *** on the basis of race, color, religion, national origin or ancestry ***" cannot be passed by the Council of the city of Akron, but must be submitted to the electorate for passage and adoption.

It does not deny the rights granted to everyone to acquire and possess property. All rights granted the citizens of Akron to acquire and possess property are retained. It denies the Council of the city of Akron the power to pass legislation regulating the "use, sale *** of real property" when the basis of that legislation is predicated upon "race, color, religion, national origin or ancestry". It retains the power to pass such regulatory legislation in the people from whom all powers, including those of the council of the city of Akron, originate. It limits the ways in which such legislation may be passed. It does not deny the people the opportunity to pass it. Such limitation of power in the legislative branch of government is not a denial of a right. It is a procedural matter, so long as the right to legislate is not denied the people.

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We are not called upon to decide legislation denying our citizens their rights to acquire and possess property. We are required only to determine if legislative powers may be retained in the people, as opposed to a legislative body, i.e., the council of the city of Akron, insofar as Charter Amendment No. 137 is concerned.

We determine that Charter Amendment No. 137 is a valid enactment, not in conflict with constitutional authority, either State or Federal.

For the reasons stated, we find that Charter Amendment No. 137 repeals Ordinances Numbers 873-1964 and 926-1964, of the City of Akron.

We further conclude that no law now exists, nor did any law exist on February 3, 1965, upon which the petitioner may predicate an action for a writ of mandamus; that the question is moot, and the petition of the relator must be denied.

Writ denied.

DOYLE, P.J., and HUNSICKER, J., concur.

APPENDIX C

Ordinance No. 873-1964 of the City of Akron, Ohio

ORDINANCE No. 873-1964 declaring a public policy of equality of opportunity in housing, creating and establishing a commission in the Office of the Mayor, which commission shall be called the "Commission on Equal Opportunity In Housing"; prescribing the duties of said Commission on Equal Opportunity in Housing; prohibiting certain acts as unfair housing practices; and declaring an emergency.

WHEREAS, The population of The City of Akron consists of people of different race, color, religion, ancestry or national origin, many of who live in circumscribed and segregated areas, under sub-standard, unhealthful, unsafe, unsanitary and overcrowded conditions, because of discrimination in the sale, lease, rental and financing of housing; and

WHEREAS, These conditions have caused increased mortality, disease, crime, vice and juvenile delinquency, fires and risk of fire, intergroup tensions and other evils, thereby resulting in great injury to the public safety, public health and general welfare of The City of Akron and reducing its productive capacity; and

WHEREAS, The harmful effects produced by discrimination in housing also increase the cost of government and reduce the public revenues, thus imposing financial burdens upon the public for the relief and amelioration of the conditions so created; and

WHEREAS, Discrimination in housing results in other forms of discrimination and segregation which are prohibited by the Constitution of the United States of America,

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and are against the laws and policy of the State of Ohio and The City of Akron; and

WHEREAS, Discrimination in housing adversely affects the continued redevelopment, renewal, growth and progress of the City of Akron;

Now THEREFORE, BE IT ENACTED by the Council of The City of Akron:

SECTION 1. *Declaration of Policy.*

It is hereby declared to be the policy of The City of Akron, in the exercise of its police power for the protection of the public safety, public health and general welfare, for the maintenance of business and good government and for the promotion of the City's trade, commerce and manufacturers, to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, ancestry or national origin, and to that end to prohibit discrimination in housing by any person or institution.

SECTION 2. To effectuate said policy there is hereby created in the Office of the Mayor a Commission on Equal Opportunity in Housing, which shall consist of five members who shall be appointed by the Mayor for a term of five years each; provided, however, that when the first Commission on Equal Opportunity in Housing shall be appointed under the provisions herein, the members thereof shall be appointed for one, two, three, four, and five years, respectively.

SECTION 3. *Definitions.*

As used in this ordinance, unless a different meaning clearly appears from the context, the following terms shall have the meanings ascribed in this section:

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(a) "Person" means any individual, partnership, association, organization, corporation, legal representative, trustee, receiver, any owner, lessee, proprietor, manager, agent, or employee; any real estate broker, salesman, managing agent, or other person having the right to sell, rent, lease, sub-lease, assign, transfer, or otherwise dispose of a housing accommodation, or having the right to negotiate a sale, rental, lease, sublease, assignment, transfer, or other disposition of a housing accommodation; the state, any of its political subdivisions, or any authority, agency, board, or commission thereof; lending institution regularly engaged in the business of lending money or guaranteeing loans; and other organized groups of persons.

(b) "Housing" means any buildings, structure, or part thereof which is used or occupied, or is intended, arranged, or designed to be used or occupied as the permanent or temporary home or residence of one or more human beings; or any vacant land for sale or lease for housing; provided that housing does not include rental accommodations in owner-occupied dwellings in which the owner, at the time of rental, maintains one of the accommodations as his family residence.

(c) "Unlawful housing practice" means any act prohibited by Section 4 of this Ordinance.

(d) "Discrimination" means any difference in treatment, including segregation, directly or indirectly, because of race, color, religion, national origin, or ancestry.

(e) "Restrictive covenant" means any specification limiting the transfer, rental, lease, or other use of any housing because of race, color, religion, national origin, or ancestry, or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing race, color, religion, national origin, or ancestry as a condition of affiliation or approval.

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(f) *Commission.* The term "Commission" means the Commission on Equal Opportunity in Housing established in the Office of the Mayor pursuant to this Ordinance.

SECTION 4. Prohibitions.

It shall be an unlawful housing practice:

(a) For any person because of race, color, religion, or nation origin, or ancestry to:

(1) Refuse to sell, rent, lease, sublease, assign, transfer, or otherwise deny or withhold any housing to any person; or to refuse to negotiate for any such purpose;

(2) Represent to any person that housing is not available for inspection when in fact it is so available;

(3) Discriminate against any person in the terms, conditions, or privileges of the sale, rental, sublease, assignment, or transfer of any housing or in the furnishing of facilities or services in connection therewith.

(b) For any person to whom application is made for financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing to:

(1) Make written or oral inquiry as to the race, color, religion, national origin, or ancestry of the person or persons seeking such financial assistance or of prospective occupants or tenants of the affected housing;

(2) Discriminate against any person or persons because of race, color, religion, national origin, or ancestry in the terms, conditions, or privileges relating to the obtaining or use of such financial assistance.

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- (c) For any person to include in any transfer, rental, or lease of housing any restrictive covenants; or for any person to honor or exercise, or attempt to honor or exercise any restrictive covenant pertaining to housing;
- (d) For any person to print or publish, or cause to be printed or published, any notice or advertisement relating to the transfer, rental, or lease of any housing which indicates any preference, limitation, or specification based on race, color, religion, national origin, or ancestry;
- (e) For any person to aid, abet, incite, compel, or coerce the doing of any act defined in this section as an unlawful housing practice, or to obstruct or prevent any person from complying with this section or any order issued under this section or to attempt, directly or indirectly, to commit any act defined in this section to be an unfair housing practice;
- (f) For any person to induce or solicit a housing listing or transaction by misrepresentations regarding the present or prospective composition of a neighborhood, or the effect of such composition of the neighborhood, where such misrepresentations include a reference to the race, color, religion, national origin, or ancestry of any other person.

SECTION 5. *Duties of the Commission on Equal Opportunity in Housing.*

It shall be the duty of the Commission to:

- (a) Initiate or receive and investigate complaints charging unlawful housing practices;
- (b) Seek conciliation of such complaints, hold hearings, make findings of fact, issue orders and publish its findings of fact and orders in accordance with the provisions of this ordinance and with the ordinance establishing the Commission;
- (c) Render from time to time, but not less than once a year, a written report of its activities and recommendations

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with respect to fair housing practices to the Mayor and to the City Council; and

(d) Adopt such rules and regulations as may be necessary to carry out the purposes and provisions of this ordinance.

SECTION 6. *Enforcement Procedure.*

(a) A complaint charging a violation of this ordinance may be made by the Commission itself or by an aggrieved individual.

(b) The Commission shall make a prompt and full investigation of such complaint of an unlawful housing practice.

(c) If the Commission determines after investigation that probable cause exists for the allegations made in the complaint, it shall attempt to eliminate the unlawful housing practice by means of conciliation and persuasion. The Commission shall not make public the details of any conciliation proceedings, but it may publish the terms of conciliation when a complaint has been satisfactorily adjusted.

(d) In any case of failure to eliminate the alleged unlawful housing practice charged in the complaint by means of conciliation or persuasion and upon making a determination of probable cause for crediting the allegations of a complaint filed hereunder, the Commission may direct the Law Director of the City of Akron to commence an action in the Court of Common Pleas within the county in which the alleged violation, which is the subject of the complaint, occurs, or in which any defendant resides, or transacts business, seeking appropriate injunctive relief against such defendant or defendants, in order to prevent any conduct tending to render ineffectual any steps that the Commission or the courts may take in order to eliminate or remedy such

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violation, and in such action to seek orders restraining and enjoining such defendant or defendants from selling, renting, or otherwise making unavailable to the person or persons discriminated against the housing accommodations with respect to which the complaint is made, and the court shall grant such temporary relief or restraining orders, upon such terms and conditions, as it deems just and proper, pending the final determination of the proceedings under this title. The Commission shall serve upon the person charged with having engaged or engaging in the unlawful housing practice, hereinafter referred to as respondent, a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than ten (10) days after the service of the complaint. The respondent shall have the right to file an answer to the complaint, to appear at the hearing in person or to be represented by an attorney or any other person, and to examine and cross-examine witnesses. At such hearing the Commission shall have the power to issue subpoenas to compel the attendance of the witnesses and the production of books and papers and other evidence necessary for a determination of the complaint.

(e) If upon all the evidence presented, the Commission finds that the respondent has not engaged in any unlawful housing practice, it shall state its findings of fact, dismiss the complaint, and instruct the Director of Law of the City of Akron to dismiss any legal proceedings which may have been instituted in the Court of Common Pleas. If upon all the evidence presented the Commission finds that the respondent has engaged or is engaging in an unlawful housing practice, it shall state its findings of fact and shall issue such order as the facts warrant. If the Commission further finds that relief of a final and permanent nature is warranted to eliminate or remedy any unlawful housing practice and to enforce the provisions of this title, it shall

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direct the Law Director of the City of Akron to prosecute any action or proceedings in the appropriate Court of Common Pleas as may be necessary to obtain such relief and enforcement.

SECTION 7. *Exceptions.*

Nothing in this ordinance shall prohibit the sale, lease, rental or transfer of real property or any interest therein as between private parties, provided, however, that such transaction or transactions shall not have the effect of placing the property upon the public or open market, or invite the public to bid upon, offer, or accept an offer for the sale, lease, rental or transfer of such property.

SECTION 8. *Severability.*

The provisions of this ordinance are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if the person or circumstances to which the ordinance or any part thereof is inapplicable had been specifically exempted therefrom.

SECTION 9. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, for the reason that it is desirable to eliminate discrimination in housing

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at the earliest possible moment, and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed: July 14, 1964

JOSEPH A. DENHOLM
Clerk of Council

LARRY Z. KISH
Acting President of the Council

Approved: July 18, 1964

EDWARD ERICKSON
Mayor

APPENDIX D

Ordinance No. 926-1964 of the City Ordinance

ORDINANCE No. 926-1964 amending Section 6 of Ordinance No. 873-1964, passed July 14, 1964, relating to equal opportunity in housing, for clarification and to provide a penalty for violation of said ordinance, and declaring an emergency.

BE IT ENACTED by the Council of the City of Akron:

"SECTION 1. That Section 6 of Ordinance No. 873-1964, passed July 14, 1964, be and the same is hereby amended to provide as follows:

"SECTION 6. Enforcement Procedure.

"(a) A complaint charging a violation of this ordinance may be made by the Commission itself or by an aggrieved individual.

"(b) The Commission shall make a prompt and full investigation of each complaint of an unlawful housing practice.

"(c) If the Commission determines after investigation that probable cause exists for the allegations made in the complaint, it shall attempt to eliminate the alleged unlawful housing practice by means of conciliation and persuasion. The Commission shall not make public the details of any conciliation proceedings, but it may publish the terms of conciliation when a complaint has been satisfactorily adjusted.

"(d) In any case of failure to eliminate the alleged unlawful housing practice charged in the complaint by means of conciliation or persuasion,

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the Commission shall hold a public hearing to determine whether or not an unlawful housing practice has been committed. The Commission shall serve upon the person charged with having engaged or engaging in the unlawful housing practice, herein-after referred to as respondent, a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than ten (10) days after the service of the complaint. The respondent shall have the right to file an answer to the complaint, to appear at the hearing in person or to be represented by an attorney or any other person, and to examine and cross-examine witnesses. At such hearing the Commission shall have the power to issue subpoenas to compel the attendance of the witnesses and the production of books and papers and other evidence necessary for a determination of the complaint.

"(e) If upon all the evidence presented, the Commission finds that the respondent has not engaged in any unlawful housing practice, it shall state its findings of fact, dismiss the complaint. If upon all the evidence presented the Commission finds that the respondent has engaged or is engaging in an unlawful housing practice, it shall state its findings of fact and shall issue such order as the facts warrant.

"(f) In the event the respondent fails to comply with any order issued by the Commission, it shall certify the case and the entire record of its proceedings to the City Director of Law for appropriate action to secure enforcement of the Commission's order.

"(g) Any person who violates any of the provisions of this ordinance or any rule or regulation

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adopted by the Commission or who fails to comply with any order of the Commission, shall be subject to a fine not exceeding Fifty and 00/100 Dollars and costs."

SECTION 2. That existing Section 6 of Ordinance No. 873-1964, passed July 14, 1964, be and the same is hereby repealed.

SECTION 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, for the reason that it is desirable to clarify a portion of said ordinance and it is to the best interest of the public that a penalty for violation of said ordinance be enacted; and provided the ordinance receives the affirmative vote of two-third of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed: July 21, 1964

JOSEPH A. DENHOLM
Clerk of Council

ROSE RAIES
Deputy Clerk of Council

Approved: July 22, 1964

EDWARD ERICKSON
Mayor

RALPH E. TURNER
President of the Council

APPENDIX E**Section 137 of the Charter of the
City of Akron, Ohio****"Section 137. (Regulation of Real Property Rights)**

Any ordinance enacted by the Council of The City of Akron which regulates the use, sale, advertisement, transfer, listing assignment, lease, sublease or financing of real property of any kind or of any interest therein on the basis of race, color, religion, national origin or ancestry must first be approved by a majority of the electors voting on the question at a regular or general election before said ordinance shall be effective. Any such ordinance in effect at the time of the adoption of this section shall cease to be effective until approved by the electors as provided herein."